STATE OF LOUISIANA
DEPARTMENT OF CIVIL SERVICE
LOUISIANA BOARD OF ETHICS
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REGARDING: Electronic Signatures
ATTORNEY: David Bordelon

La. R.S. 9:2601, *et seq.*, is the Louisiana Uniform Electronic Transaction Act, which went into effect on July 1, 2001. This Act applies to electronic records and signatures relating to a transaction. La. R.S. 9:2603A. "Transaction" for purposes of the Act means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs. La. R.S. 9:2602. "Person" means an individual or governmental agency. La. R.S. 9:2602.

Each governmental agency of this state shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records. La. R.S. 9:2617. La. R.S. 9:2618 provides for the acceptance and distribution of electronic records by governmental agencies in Louisiana:

> A. Except as otherwise provided in R.S. 9:2612(F), **each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.**
>
> B. To the extent a governmental agency uses electronic records and electronic signatures under Subsection A of this Section, the governmental agency, giving due consideration to security, may specify the following:
>
> (1) The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.
>
> (2) **The electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.**
>
> (3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and audit ability of electronic records.
>
> (4) Any other required attributes for electronic records which are specified for corresponding non-electronic records or reasonably necessary under the circumstances.

> C. Except as otherwise provided in R.S. 9:2612(F), this Chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

An "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. La. R.S. 9:2602(8)

While not official, the comments to §2618 provide:

> "This Section broadly authorizes state agencies to send and receive electronic records and signatures in dealing with non-governmental persons. This Section is broad and general to provide the greatest "flexibility and adaptation to the specific needs of the State."

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form. La. R.S. 9:2613. To constitute a valid electronic signature under the Act, there must be a showing that the signer intended to do a legally significant act. *Regions Bank v. Cabinet Works, LLC.*, 92 So.3d 945 (La. App. 5. Cir. 4/10/12). The party seeking to enforce an e-mail agreement with an electronic signature has the burden to prove that there was intent to sign. *City of New Orleans v. Jazz Casino., LLC*, 195 So.3d 1252 (La. App. 4 Cir. 6/22/16), *writ denied*, 209 So.3d 99, (La. 11/7/16).

La. R.S. 42:1158 requires the Board to establish a computer data management system that shall permit electronic filing of all reports required to be filed with the board.

R.S. 9:2618B is permissive in that a state agency **may** determine the manner and format in which the electronic signature must be fixed to the document. Reading R.S. 42:1158 and 9:6219 together, it appears that the BOE would have authority to accept electronic signatures without a rule or statute expressly authorizing a specific type of electronic signature.

It also appears that the Ethics Administrator can approve receipt of electronic signatures via DocuSign, at least on a temporary, emergency basis. The Secretary for the Dept. of Environmental Quality issued an Order in connection with the COVID-19 Public Health Emergency that expressly authorized that DEQ would accept "DocuSign" and other e-signatures during the term of the emergency order.

RS 9:2602

§2602. Definitions

As used in this Chapter, unless the context otherwise requires:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course of forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the agreement of the parties as affected by this Chapter and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part without review or action by an individual.

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, unit, or instrumentality of the federal government or of a state or of a county or parish, municipality, or other political subdivision of a state.

(10) "Information" includes data, text, images, sounds, codes, computer programs, software, and databases, or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means this state or another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular

possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Acts 2001, No. 244, §1, eff. July 1, 2001.

RS 9:2618

§2618. Acceptance and distribution of electronic records by governmental agencies in this state

A. Except as otherwise provided in R.S. 9:2612(F), each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

B. To the extent a governmental agency uses electronic records and electronic signatures under Subsection A of this Section, the governmental agency, giving due consideration to security, may specify the following:

(1) The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

(2) The electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

(3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and audit ability of electronic records.

(4) Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

C. Except as otherwise provided in R.S. 9:2612(F), this Chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

Acts 2001, No. 244, §1, eff. July 1, 2001.

Notes Of Decisions (8)

Electronic signature

Uniform Electronic Signature Law applied to automobile insurance policies and required uninsured/ underinsured motorist (UM) forms, and thus fact that insured obtained automobile liability insurance policy online and signed policy forms electronically did not invalidate her selection for UM coverage, and fact that she approved selection of economic-only uninsured/underinsured motorist bodily injury (UMBI) coverage by e-signature instead of e-initials as set forth by guidance from Department of Insurance, did not invalidate her consent to limitation of UMBI coverage. Jackson v. Liberty Personal Insurance Company, App. 5 Cir.2020, 299 So.3d 1256, 20-13 (La.App. 5 Cir. 7/2/20) . Insurance 2778 ; Signatures 1

E-signed form selecting economic-only uninsured motorist (UM) coverage was valid, even though coverage was pre-selected and could not be changed and insured's name and date did not appear in designated area on the form; insured electronically initialed selection, his name was printed on form electronically signed by him, and it contained date and policy number. Addison v. Affirmative Insurance Company, App. 4 Cir.2017, 231 So.3d 753, 2017-0378 (La.App. 4 Cir. 11/15/17) , writ denied 235 So.3d 1109, 2017-2061 (La. 2/2/18) . Insurance 2778

The party seeking to enforce an e-mail "agreement" with an electronic signature has the burden to prove that there was intent to sign. City of New Orleans v. Jazz Casino Co., LLC, App. 4 Cir.2016, 195 So.3d 1252, 2015-1150 (La.App. 4 Cir. 6/22/16) , writ denied 209 So.3d 99, 2016-1393 (La. 11/7/16) . Contracts 45

The party seeking to enforce an e-mail "agreement" with an "electronic signature" has the burden to prove that there was intent to sign. City of New Orleans v. Jazz Casino Co., LLC, App. 4 Cir.2016, 195 So.3d 1252, 2015-1150 (La.App. 4 Cir. 6/22/16) , writ denied 209 So.3d 99, 2016-1393 (La. 11/7/16) . Contracts 45

Guarantor and bank did not compromise and settle bank's breach of promissory note claim against guarantor, though guarantor signed draft settlement agreement provided by counsel for the bank and obtained a certified check for the amount of the proposed settlement, where there was no indication that the initials and name indications on the e-mails that bank's counsel sent to guarantor's counsel were adopted as electronic signatures for purposes of the Uniform Electronic Transactions Act, some of the terms of the settlement were still being negotiated, and bank never signed the proposed settlement. Regions Bank v. Cabinet Works, L.L.C., App. 5 Cir.2012, 92 So.3d 945, 11-748 (La.App. 5 Cir. 4/10/12) . Compromise, Settlement, And Release 315

E-mail can fulfill the requirement for a compromise to be in writing; to constitute an electronic signature as required by the Uniform Electronic Transactions Act, however, the electronic sound, symbol, or process associated with a record must be executed or adopted by a person with the intent to sign the record. Regions Bank v. Cabinet Works, L.L.C., App. 5 Cir.2012, 92 So.3d 945, 11-748 (La.App. 5 Cir. 4/10/12) . Compromise, Settlement, And Release 312 ; Compromise, Settlement, And Release 315 ; Signatures 1

To constitute a valid electronic signature under the Uniform Electronic Transactions Act, there must be a showing that the signer intended to do a legally significant act. Regions Bank v. Cabinet Works, L.L.C., App. 5 Cir.2012, 92 So.3d 945, 11-748 (La.App. 5 Cir. 4/10/12) . Signatures 1

Written agreement

E-mail correspondence between city and taxpayer concerning taxpayer's 90-day waiver of prescriptive period for sales and use tax assessment did not constitute a "written agreement" suspending prescriptive period; there was no evidence that taxpayer's agent intended to sign the alleged e-mail "agreement," e-mails indicated that a final form agreement would be sent to taxpayer and signed by taxpayer's officer, e-mail exchange lacked the witnesses and notarization required by city's standard waiver form and cover letter, and each of taxpayer's five previous waivers was executed by taxpayer's officer, witnessed, and notarized as required by city. City of New Orleans v. Jazz Casino Co., LLC, App. 4 Cir.2016, 195 So.3d 1252, 2015-1150 (La.App. 4 Cir. 6/22/16) , writ denied 209 So.3d 99, 2016-1393 (La. 11/7/16) . Taxation 3689

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RS 9:2619

§2619. Interoperability

A. The commissioner of administration shall encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this state, other states, the federal government, and nongovernmental persons interacting with governmental agencies of this state.

B. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Acts 2001, No. 244, §1, eff. July 1, 2001.

2020 WL 7686689 (La.Dept.Env.Qual.)

State of Louisiana

Division of Administrative Law

Department of Environmental Quality

IN THE MATTER OF PUBLIC HEALTH EMERGENCY EVENT NAME: COVID-19

Agency Interest No. 221899
June 5, 2020

SIXTH AMENDED DECLARATION OF EMERGENCY AND ADMINISTRATIVE ORDER

1** Pursuant to the authority granted to me by Louisiana Revised Statutes 30:2001 ***et seq., and particularly La. R.S. 30:2033 and 2011 (D)(6), I hereby make the following findings, declaration and order, which supersede the previous declarations and orders issued in this matter on March 19, 2020,March 20, 2020, March 27, 2020, May 1, 2020, and May 15, 2020:

FINDINGS AND DECLARATION

1. Beginning on the **11th** day of **March**, a **Public Health Emergency, COVID-19** (hereinafter **"COVID-19")** is expected to adversely impact the citizens of the State of Louisiana, causing a widespread public health emergency within the State of Louisiana.

2. By State of Louisiana Proclamation No. **25 JBE 2020**, Louisiana Governor John Bel Edwards, pursuant to the Louisiana Emergency Powers Act, La. R.S. 29:760, et seq., declared on **March 11, 2020**, that a statewide public health emergency exists in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by **COVID-19**, which has created emergency conditions that threaten the lives and health of the citizens of the State. Moreover, by State of Louisiana Proclamation No. **33 JBE 2020**, Governor Edwards ordered: that all state office buildings are closed to the public, that all gatherings of ten (10) people or more shall be postponed or cancelled, that all individuals within the state of Louisiana are under a general stay-at-home order and are directed to stay home unless performing an essential activity, and further closures of businesses or reduction in operations. On April 30, 2020, Governor Edwards signed an order extending the stay at home order to May 15, 2020. On May 14, 2020, Governor Edwards signed Proclamation **58 JBE 2020**, ordering the State of Louisiana into Phase I of recovery beginning May 15, 2020. Finally, on June 4, 2020, the Governor signed Proclamation 74 JBC 2020, moving the State of Louisiana into Phase 2 of recovery beginning June 5, 2020.

3. This Declaration of Emergency and Administrative Order (hereinafter ""Order") shall apply statewide (Emergency Area).

4. I find that **COVID-19** has created or will create conditions that require immediate action to prevent serious threats to life or safety throughout the Emergency Area.

WHEREFORE, I hereby declare that an emergency exists, and that the following measures are necessary to prevent serious threats to life or safety throughout the Emergency Area.

ORDER

Within the Emergency Area:

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§ 1. Public Notice and Public Participation Procedures Regarding Proposed Permit Actions

a. All scheduled public hearings are postponed until further notice. Accompanying public comment periods will be adjusted accordingly. During this time, public comments will be accepted by LDEQ, preferably via electronic mail or mail.

*2 b. No new public hearings will be approved or scheduled until further notice. Requests for public hearings may be submitted.

c. Public Notices which require placement of documents in a public repository or for which the regulatory requirements cannot otherwise be fulfilled will be postponed in areas where public libraries remain closed due to COVID-19 safety protocols.

d. Draft air permits, which as a matter of agency practice are placed in a public repository for public review and comment, will only be available on-line on LDEQ's Electronic Document Management System (EDMS) when those public repositories are closed due to COVID-19. In these instances, any person who does not have access to the internet may request hard copies of the draft permit from LDEQ. Such requests will be processed on a case-by-case basis.

§ 2. Records Management

Copies of LDEQ documents are usually available online in LDEQ's Electronic Document Management System (EDMS). The EDMS is available at http://edms.deq.louisiana.gov.

Additional documents may be available by placing a Public Records Request using the online form at http://edms.deq.louisiana.gov/prr or the printable paper form available at http://deq.louisiana.qov/assets/docs/General/PublicRecordsRequestForm.pdf. Please contact Records Management with any questions at (225) 219-3171 or publicrecords@la.gov.

§ 3. Invoices and Late Fees

The Department has mailed all outstanding fiscal year 2020 invoices. Late fees will be assessed beginning June 15, 2020, once at least 30 days have passed from the date invoices were mailed. Invoices that were mailed prior to COVID-19 closures may have late fees assessed for any outstanding invoices at any time.

Waste Tire Generators: invoices for late payments and late report fees will resume being mailed for all monthly waste tire reports due at this time. No late fees will be assessed for February 2020 and March 2020 reports and payments postmarked by June 30, 2020.

§ 4. General Conditions

a. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

b. This Order only serves as relief for the duration of this Order from the regulatory and proprietary requirements of the Department, and does not provide relief from the requirements of other federal, state, and local agencies. This Order therefore does not negate the need for the property owner or facility operator to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies.

§ 5. General Limitations

The Department issues this Order solely to address the emergency created by **COVID-19**. This Order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this Order.

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§ *6*. ***Electronic Submittals to the Department for Permitting***

*3 The use of LDEQ's physical drop box remains the preferred method for submitting permit applications or other permit application related materials. However, the Department will accept electronic submittals for the duration of this Order. Hard copies shall be submitted to the Department within thirty (30) days of the expiration of this Order. Failure to submit hard copies may result in a suspension or revocation of the permit action. Email submittals are the preferred method of electronic submittals. If the file size exceeds 10 MB, please utilize LDEQ's Dropoff Application process. **Appendix A** provides guidance as to how electronic submittals should proceed for the duration of this order.

The Department will also accept **DocuSign®** and other e-signatures from responsible officials during this time until the expiration of this Order.

Finally, the Department will accept online payments via the Department's Business Website https://business.deq.louisiana.gov/ Pavments in lieu of checks.

§ *7*. ***Motor Fuel Trust Fund Eligibility and Reimbursement***

Motor Fuel Trust Fund Eligibility and Reimbursement applications can be mailed to Trust Fund Section, Financial Services Division, Trust Fund Section, P. O. Box 4303, Baton Rouge, LA 70821-4303. However, the Department will accept electronic submittals of the applications and supporting documentation for the duration of this Order. Hard copies of the applications and signed affidavits shall be submitted to the Department within thirty (30) days of the expiration of this Order. Failure to submit hard copies may result in the Department seeking recovery of any reimbursements made based upon the electronic submittal. Email is the preferred method of electronic submittals to MFTF @la.gov. If the file size exceeds 10 MB, please utilize LDEQ's Dropoff Application process. **Appendix B** provides guidance as to how electronic submittals should proceed for the duration of this Order.

§ *8*. ***Radiation Regulation***

For the duration of this Order, licensees, registrants, and holders of industrial radiography certifications shall follow the guidelines provided in **Appendix C**, incorporated herein by reference.

§ *9*. ***Asbestos Refresher Training***

For the duration of this order, the Department will allow and accept on-line asbestos refresher training. In order for on-line training courses to be accepted, the Louisiana approved trainer shall follow the guidelines provided in **Appendix D**, incorporated herein by reference.

§ *10*. ***Asbestos Reaccreditation***

This Order only pertains to LAC 33:111.2799. D.5, specifically for applicants seeking LDEQ reaccreditation for any asbestos discipline who has completed or will complete a refresher training, but the refresher training was not or will not be completed within two (2) years of the last asbestos course completion date and whose asbestos accreditation expired on or after March 11, 2020, the date the State of Louisiana Proclamation No. 25 JBE 2020 was signed by Louisiana Governor John Bel Edwards.

*4 For the duration of this Order, the above described applicant can submit an AAC-1, in accordance with all applicable requirements of LAC 33:lll.Chapter 27, including but not limited to, submitting a copy of their current asbestos refresher training certificate, and a signed statement with specific details and/or circumstances to demonstrate to the Department that a refresher training course, for this specific discipline, could not be scheduled and completed within the two (2) year timeframe of

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LAC 33:III.2799.D.5. Based on this information, the Department will determine if the applicant must retake the initial asbestos training course or if the applicant's refresher training will be used for LDEQ reaccreditation.

§ *11*. ***Other Authorizations Required***

Nothing in this Order shall eliminate the necessity for obtaining any other federal, state, or local permits or other authorizations that may be required.

§ *12*. ***Extension of Time to Comply with Specified Deadlines***

For facilities regulated by the Department in the Emergency Area, this Order extends the time for a period of thirty (30) days to comply with the following specified deadlines that occur between **March 19, 2020**, and the expiration of this Order:

a. The time deadlines to report periodic monitoring or to submit other reports required by permits, regulations, other authorizations, enforcement actions, or settlement agreements, ***except*** for monitoring required by air permits issued under Title IV or V of the Clean Air Act, under the PSD program, or any other federal Clean Air Act requirement, only insofar as a facility does not have appropriate personnel available due to **COVID-19**;

b. The time deadlines to conduct periodic inspection(s) and/or monitoring required by permits, regulations, other authorizations, enforcement actions, or settlement agreements, ***except*** for monitoring required by air permits issued under Title IV or V of the Clean Air Act, under the PSD program, or any other federal Clean Air Act requirement, only insofar as a facility does not have appropriate personnel available due to **COVID-19**. Documentation must be maintained and made available to the Department upon request;

c. The time deadlines to file an application for renewal of an existing permit, ***except*** for air permits issued under Title V of the Clean Air Act. All renewal applications shall be submitted no later than the expiration date of the existing permit. This order does not suspend emergency reporting requirements under the regulations or permit requirements.

In light of personnel and technical difficulties related to **COVID-19**, the Department previously provided an extension of time from March 31, 2020 to May 1, 2020, for the submittal of Title V Semiannual Monitoring and Deviation reports and Annual Compliance Certifications. Any such report submitted after the May 1, 2020 deadline shall be considered late.

***5** To the extent that any reports are to be submitted to the United States Environmental Protection Agency (USEPA), they should be submitted in accordance with the directions provided in "COVID-19 Implications for EPA's Enforcement and Compliance Assurance Program," issued by the USEPA on March 26, 2020, or any further USEPA guidance on this point.

§ *13*. ***Completion of Authorized Activities***

All activities authorized under this Order must be commenced before the expiration of this Order unless otherwise provided in an authorization or permit. The deadline for commencement under any authorization or permit issued under this Order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, or other local, state, or federal agencies.

§ *14*. ***Amendments***

This Order may be amended as required to abate the emergency.

§ *15*. ***Expiration Date***

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This Declaration of Emergency and Administrative Order shall take effect immediately upon execution by the Secretary of the Department, and shall expire at midnight on June 26, 2020, unless modified or extended by further order.

DONE AND ORDERED on this 5th day of June, 2020, in Baton Rouge, Louisiana.

Dr. Chuck Carr Brown
Secretary

APPENDIX A

GUIDANCE PROTOCOL FOR ELECTRONIC SUBMITTALS TO THE DEPARTMENT AND ONLINE PAYMENTS RELATED TO PERMITTING

The following protocol is intended to assist the regulated community in electronic submittals to the Department related to permitting for the duration of this Order.

To the extent possible and to assist the Department during this time, please submit files as one PDF file (i.e. please try to convert any Word or Excel files to PDF). This will assist the Department with processing any documentation submitted and alleviate any potential loss of documentation.

The preferred method of electronic submittals is via electronic mail. Below are the appropriate contacts for submitting documentation below 10 MB file size via email.

To submit large file size documents (over 10 MB), please follow these instructions to utilize LDEQ's Dropoff Application. Should you need to submit a large file to the Department, please begin by sending an email to one of the designated contacts to request that a Dropoff Link be sent to your email or a specified email account. The appropriate contact will generate a link to LDEQ's Dropoff Application for upload of documents. This link will be active for three (3) days, so prompt upload of documents is necessary. The assigned contact below will then download the documents, confirm receipt of the documents via email (although an automatic email should be generated by the system), and route them to the appropriate party for processing at the Department.

***6** Due to the increased use of LDEQ's server, large file size documents should preferably be submitted before 8am or after 6pm.

Moreover, LDEQ will be accepting electronic payments for permit fees at this time in lieu of checks. Please consult https://business.deq.louisiana.gov/Payments for further instruction. If you have any issues with online payments please contact Elizabeth Dequeant at Elizabeth.Dequeant@LA.GOV.

Contact Information for LDEQ's Permit Application and Administrative Review Group (PAAR):

For questions regarding these procedures please contact Kaylee Fontenot, PAAR Group Supervisor, at Kaylee.Fontenot@l-A.GOV.

Air Permits - airpermitapp@LA.GOV

Water Permits (including biosolids) - waterpermitapp@LA.GOV

Waste Permits (including waste tire) - wastepermitapp@LA.GOV

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Electronic Signature or E-Signature

	Department of Health (LDH)	
LOUISIANA DEPARTMENT OF HEALTH	**Policy Number**	133.1
	Content	Procedures for Issuing and Accepting Electronic Signatures for Internal and External Transactions
	Effective Date	August 19, 2020
	Inquiries to	LDH Office of the Secretary P.O. Box 629 Baton Rouge, LA (225) 342-6763

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/overrule/supersede the conflicting section within the Program Office or facility policy.

I. PURPOSE

The purpose of this policy is to allow the Louisiana Department of Health (LDH) to use e-signatures to authenticate a document with a uniquely identifiable electronic signature instead of a traditional ink signature. The use of e-signatures by LDH is authorized and regulated by La. R.S. 9:2601 *et seq.;* La. R.S. 39:1556(53); LAC 4: I.701 *et seq.;* LAC 34: V.307; and LAC 34: V.2509(G).

II. APPLICABILITY

This policy is applicable to transactions between third-parties and LDH and for LDH internal transactions, where each has agreed to conduct transactions by electronic means.

III. EFFECTIVE DATE

The effective date of this policy is (Date of Secretary's Signature)

IV. POLICY STATEMENT

Electronic signature, or e-signature, means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. An e-signature is valid wherever a traditional ink signature by the same signer would be valid, except in those cases where another authority governs another aspect of the transaction, and such authority does not accept electronic signatures.

An electronic signature may be accepted whenever an ink signature/approval is required, except where laws specifically require a hand written signature. This policy does not limit the right or option to conduct

the transaction on paper or in non-electronic form or the right to have documents provided or made available on paper at no charge to the parties to the transaction.

The preferred form of electronic signature will be a signature applied through the electronic signature service contractor, a third-party service with which LDH has a contract to protect e-signature use and security. The e-signature must be protected by reasonable security measures as applicable to established terms and conditions within the agreement between the electronic signature service contractor and LDH.

The electronic signature service contractor, which is currently DocuSign, shall be used unless it is impractical or not feasible due to urgency or shortage of time, physical unavailability, lack of access to necessary hardware or software, or other exigent circumstances. In such cases, one of the following alternative forms of electronic signature may be used, at the discretion of each Assistant Secretary or Executive Director/Director:

1. A scanned ink signature (accompanied by a secondary validation document) such as email receipt provided that the email is sent by the signer or copy of valid driver's license or valid state issued ID).
2. A signature captured using a digital pen or pad; (accompanied by a digital certificate)
3. A signature applied by an approved and secure third-party software which uses a certified digital signature, currently Adobe Pro.
4. A typed signature on a document attached to an email providing that the email is sent by the signer.

For any document signed electronically, the signer must show clear intent to sign electronically. When any signer opts out of signing electronically, clear instructions on how to sign an agreement manually must be provided to the signer.

All signers should receive a copy of the fully executed agreement. This can be accomplished by providing a hardcopy or an electronic copy.

The standard record retention requirements apply to electronically signed documents.

Subject to all applicable laws and regulations, the following are examples of types of transactions that are eligible for an electronic signature:

1. Employment/Human Resources related transactions
2. Procurement/Contract related transactions
3. Medicaid Enrollment related transactions
4. Budget/Financial related transactions
5. Policy and/or Rule transactions

V. ROLES AND RESPONSIBILITIES

LDH Agency Discretion

Each LDH Agency has discretion to decide whether to permit the use of electronic signatures for documents specific to their Agency that are not specifically identified as approved by this policy. Each Agency should work with the Bureau of Legal Services to determine where applicable laws permit an electronic signature to be used. In addition, each Agency that opts to use electronic signatures must adopt/amend their business practices to support the requirements of this policy. Each Agency shall

identify the documents that will be processed for electronic signature and shall develop appropriate guidelines in accordance with this policy.

Individuals who falsify electronic records or electronic signatures may be subject to criminal penalties under La. R.S. 14:132 (Injuring Public Records) or La. R.S. 14:133 (Filing or Maintaining False Public Records) and additionally may be subject to disciplinary action, up to and including separation from employment in accordance with Civil Service Rules and LDH Employment policies.

VI. REFERENCES

Attachment 1: DOCUSign User/Signer Guide (https://support.docusign.com/articles/Get-Started-with-DocuSign-eSignature-part-one)

VII. REVISION HISTORY

Date	Revision
August 19, 2020	Policy created